

AARON D. FORD  
Attorney General  
Allison Herr (Bar No. 5383)  
Senior Deputy Attorney General  
State of Nevada  
Office of the Attorney General  
555 E. Washington Ave., #3900  
Las Vegas, NV 89101  
(702) 486-3799 (phone)  
(702) 486-2377 (fax)  
[AHerr@ag.nv.gov](mailto:AHerr@ag.nv.gov)

*Attorneys for Respondents*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MICHAEL SMITH,

Petitioner,

VS.

RENEE BAKER, et al.,

## Respondents.

Case No. 3:13-cv-00246-RCJ-WGC

**UNOPPOSED MOTION FOR EXTENSION  
OF TIME TO REPLY TO OPPOSITION TO  
SECOND MOTION TO DISMISS  
(ECF NOS. 52, 74)**

**(FIRST REQUEST)**

Respondents move this Court for an enlargement of time of thirty (30) days from the current due date of September 12, 2019, up to and including Monday, October 14, 2019, in which to file their reply to Petitioner's response in opposition to Respondents' motion to dismiss. ECF Nos. 52, 74. This motion is made pursuant to Fed. R. Civ. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon the attached affidavit of counsel.

This is the first enlargement of time sought by Respondents and is brought in good faith and not for the purpose of delay.

DATED September 12, 2019.

AARON D. FORD  
Attorney General

By: /s/ Allison Herr  
Allison Herr (Bar No. 5383)  
Senior Deputy Attorney General

**DECLARATION OF ALLISON HERR**

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

I, Allison Herr, being first duly sworn under oath, depose and state as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada, and am employed as a Senior Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in the case of *Michael Smith v. Renee Baker, et al.*, Case No. 3:13-cv-00246-RCJ-WGC, and as such, have personal knowledge of the matters contained herein.

2. A reply to Petitioner's opposition to the motion to dismiss (ECF No. 74) is currently due on Thursday, September 12, 2019.

3. The undersigned is new to the case and was not the drafter of the original motion to dismiss. ECF No. 52. Thus it is taking longer than it might otherwise have been expected to familiarize myself with the case in order to cogently respond to those issues raised in the opposition pleadings. I have been unable with due diligence to timely complete the response herein. Additional time is needed to draft responsive pleadings and have those pleadings reviewed and approved by my supervisor. I am seeking an extension of time to Monday, October 14, 2019.

4. This motion is made in good faith and not for the purpose of delay. I am making diligent efforts to file the record and responsive pleadings in this matter, however I must also balance this case with the demands of the other matters to which I am responsible. I am currently assigned to respond to 42 federal habeas cases and approximately 75 state habeas matters. In the past thirty days I have filed responses in the following matters: *Escobar v. State*, 77462-COA, Answering Brief; *Orr v. Williams*, 2:17-cv-908, Opposition; *Malone v. Williams*, 2:18-cv-764, Motion to Dismiss; *Davis v. Williams*, 2:15-cv-1574, Evidentiary Hearing; *Ochs v. Gentry*, 2:16-cv-982, Reply; *Gayler v. State*, NSC 77897, Answering Brief; *Marquez v. Williams*, 3:15-cv-492, Reply Brief.

5. In the next thirty days, I have 1 state appellate answering brief, and 1 reply brief, 1 opposition and 2 answers to federal petitions due. Consequently, I am requesting an extension of thirty days or until Monday, October 14, 2019 to file a reply brief in this matter.

111

6. This is the first request for an extension in this case. I have conferred with counsel for the Petitioner, Amelia Bizzaro, and she does not oppose my request.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12<sup>th</sup> day of September 2019.

/s/ Allison Herr  
Allison Herr (Bar No. 5383)

IT IS SO ORDERED this 20th day of September, 2019.

  
ROBERT C. JONES

ROBERT C. JONES